UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/ICEF/1992/SR.3
30 March 1992
ENGLISH
ORIGINAL: SPANISH

UNITED NATIONS CHILDREN'S FUND

EXECUTIVE BOARD

March 1992 organizational session

SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Wednesday, 25 March 1992, at 10 a.m.

Chairman: Miss SETH (India)

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This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent to Ms. M. A. Cuna, Office of the Secretary of the Executive Board, room H-12K, UNICEF House, 3 United Nations Plaza, New York.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.10 a.m.

STANDARD BASIC COOPERATION AGREEMENT (E/ICEF/1992/L.1 and Add.1-3 and E/ICEF/1992/L.2) (continued)

1. Mr. MONTES DE OCA (Observer for Mexico) said that no distinction should be made between the five States which had to sign bilateral agreements with UNICEF for the first time and the other 28 States which were renegotiating existing agreements. His delegation had held consultations with many delegations and was assured that most of them took a favourable view of the suggestions his country had made, which appeared in paragraph 2 of document E/ICEF/1992/L.1/Corr.1. He was referring specifically to the suggestion that the words "under applicable law" should be added at the end of paragraph 1 of the English text of article VIII, which had received considerable support during informal consultations held by his delegation. The Office of the Legal Counsel and the secretariat of UNICEF felt that that suggestion was a viable option. Moreover, his delegation suggested that, in the English text of article XII, the words "shall be" should be replaced by "may be", since it would prefer it if an agreement of that nature was more flexible and if the tax exemption referred to in that article was not an obligation but was established in bilateral agreements in accordance with existing national legislation.

2. Ms. LIEDES (Finland) said that the organizational session was perhaps not the appropriate time to take a final decision with regard to the objections that some delegations had made to the content of the Agreement. Her delegation also had some concerns about the Agreement, which it had explained during the informal consultations of the Board and to members of the secretariat responsible for drafting the final version of the standard Basic Cooperation Agreement. In particular, it would like it to be made clear in the preamble to the text that UNICEF was carrying out its operations within the framework of the operational activities of the United Nations system. She also suggested that the suggestions made by the Mexican delegation should be considered at a later stage, when the Board was in a position to take a final decision on those matters.

3. Mr. KABIR (Observer for Bangladesh) said that the Board should take note of the standard Basic Cooperation Agreement in order to enable the secretariat to initiate bilateral negotiations with Governments; the final text of the Agreement could then be adjusted to take into account the situation in different countries.

4. Mr. GRAHAM (United States of America) said it was regrettable that the comments that were being made at such an advanced stage of the debate on the standard Basic Cooperation Agreement had not been made earlier. He supported the view of the representative of Finland, and noted that the stage for consideration of procedural matters had already been concluded. The matter under consideration should therefore be postponed until the regular session of

(Mr. Graham, United States)

the Board. He hoped that, when that time came, delegations which wished to do so would have held bilateral meetings with the secretariat to submit their views on the standard Basic Cooperation Agreement.

5. Mr. LENZI (Italy) said that the Mexican suggestions were substantive and should be considered at the regular session in June.

6. Mr. KOIKE (Japan) supported the statements made by the representatives of the United States and Italy. However, since the subject had already been considered at previous regular sessions, it might be possible to use the current meeting of the organizational session to determine whether other delegations shared the concerns expressed by the representative of Mexico and had substantive objections to the text of the standard Basic Cooperation Agreement, without initiating a debate on the matter. He suggested that informal bilateral consultations should be held before the end of the meeting, and that the results of those consultations should be transmitted to the Board that same day. Before any such consultations, his delegation would like clarification as to whether the Board's function was merely to take note of the standard Basic Cooperation Agreement, so that no Government would be obliged to accept the contents of the Agreement; and whether the Board would then authorize the secretariat of UNICEF to initiate bilateral negotiations with the Governments concerned on various questions, including those raised by the representative of Mexico.

7. Mr. SCOULAR (United Kingdom) said that the text before the Board was only a set of possible parameters; consequently, the precise wording of the text was not very important, as long as it was in line with the general interests of most countries. The Board was now very close to producing a text of that nature, since Mexico had suggested only one or two amendments, and they were minor. For example, with regard to the English text of article XII, in which the representative of Mexico was suggesting that the words "shall be" should be replaced, his delegation felt that those words could be changed to "should be", thereby meeting the concerns of Mexico and at the same time retaining the general tone of the text.

8. Ms. DIOP (Senegal), Miss ZINDOGA (Zimbabwe) and Mr. VILCHEZ ASHER (Nicaragua) supported Japan's position that the Board should take note of the standard Basic Cooperation Agreement and that the secretariat should continue to hold informal bilateral consultations with the Governments concerned.

9. Mr. MONTES DE OCA (Observer for Mexico) said that the suggestion made by the representative of the United Kingdom concerning article XII was acceptable and would enable the Board to move closer towards a solution. With regard to the first suggestion made by his delegation, namely, that the words "under applicable law" should be added at the end of article VIII, paragraph 1, he asked whether the Office of Legal Affairs could give an opinion.

10. Mr. SCOTT (Australia), referring to the amendment suggested by the delegation of Mexico (E/ICEF/1992/L.1/Corr.1, para. 2) concerning article VIII, paragraph 2, of the Agreement, asked whether the fact that Mexico had not brought up that amendment again meant that it had withdrawn it.

11. Mr. MONTES DE OCA (Observer for Mexico) said that he had proposed that amendment in order to clarify a position that had developed during the bilateral negotiations with the UNICEF secretariat and the Office of the Legal Counsel; but it was no longer pertinent because article VIII, paragraph 2, as it stood in the standard Basic Cooperation Agreement satisfied his delegation.

12. Ms. LOKHAUG (Deputy Executive Director, Operations), replying to the question regarding the Board's function raised by the delegations of Bangladesh, Japan, Zimbabwe, Senegal and others, said that in view of the recommendation contained in document E/ICEF/1992/L.2/Corr.2, UNICEF could not initiate new negotiations with the 28 Governments or with any other Government before the Board had approved that recommendation. UNICEF would initiate such negotiations only when a concerned Government so agreed. Also, it was clear that the standard Agreement was meant to serve as the basis for new bilateral negotiations, during which any special national interests would be taken into account. That was the Board's function, rather than to reach agreement on all the details.

13. Mr. SSEKANDI (Deputy Director, General Legal Division of the Office of Legal Affairs) said that the discrepancies between the secretariat text and the proposals of delegations centred on article XII. Extensive consultations had been held with the delegation of Mexico and an attempt had been made to take into account the interests of States. The Board had before it a correction containing the suggestions submitted by Mexico, as revised orally at the meeting by its delegation, and he wished to emphasize that, in addition to consulting with the Legal Counsel and with UNICEF, the Board was ready to state at the conclusion of the meeting that the secretariat and the Office of Legal Affairs would have no objection whatsoever if a Government with which the Agreement was being negotiated would prefer to use the current wording of paragraph 25 of document E/ICEF/1992/L.1/Corr.1, and that they would also not object to adding the phrase "under applicable law" in article VIII, paragraph 1, at the request of Governments during their negotiations with the secretariat. With regard to the amendment to article VIII, paragraph 2, Mexico had indicated privately to the Board that UNICEF had author's prerogatives where the text was concerned, and therefore the Board had taken the opportunity to correct the particular error in question without reproducing Mexico's draft of paragraph 2.

14. As to the proposal of Japan, Senegal and Zimbabwe that an arrangement should be arrived at in respect of article XII, the Greeting Card Operation had generated income for UNICEF for almost 40 years and each time there had been an attempt to make that activity taxable, the UNICEF practice had been to intervene on the basis of the Convention on Privileges and Immunities in order to avoid taxation. The funds produced by the Operation were used exclusively

(Mr. Ssekandi)

to promote UNICEF objectives. Therefore greeting card sales should not be considered a taxable commercial activity, a position accepted by the many countries which had granted tax exemption. The use of discretional wording in the standard Agreement would undermine the advances made in the bilateral agreements concluded with Governments. The Board had asked the delegation of Mexico, in exchange for agreement on its other proposals, to consider the possibility of not insisting on its request, but it had not done so. The Board would hold new consultations with Mexico and would inform the members of the outcome at the afternoon meeting.

15. Mr. MONTES DE OCA (Mexico) said that he wished to clarify his position and show flexibility, and would agree to the retention of the wording of article XII. However, it was a matter of logic: if the words "other products" or "products" were added, some other flexible term should also be added, such as "may be". If only the greeting cards were referred to, the words "shall be" would be acceptable, but in the case of other products it would be very dangerous because it would run counter to the very aims of UNICEF and to the possibility of encouraging States to expand the system of tax exemptions.

16. Mr. GRANT (Executive Director) said that he would wish that the text could be kept as it stood, although it was subject to negotiation. The great majority of countries, who did act according to logic in distinguishing between the greeting cards and other products, offered tax exemptions and allowed those funds to benefit children. He therefore hoped that the concept could be maintained and urged Mexico to join the majority.

17. The CHAIRMAN suggested that informal consultations should be held with the delegation of Mexico. Accordingly, the adoption of a decision on item 9 would be deferred.

OTHER MATTERS

18. The CHAIRMAN read out to the Board the amendment contained in document E/ICEF/1992/CRP.11. If she heard no objection, she would take it that the members of the Board wished to adopt the amendment.

19. It was so decided.

20. Mr. WARD (Canada), speaking as Chairman of the drafting sessions, drew the attention of the members of the Board to document E/ICEF/1992/CRP.12, which contained in greater detail the proposal he had made the previous day. The number of meetings came to 30, a number permitted by the General Assembly. In response to the request of some members of the Board to divide consideration of item 5 (e) in the proposed timetable for the Programme Committee, on Friday, 19 June, the interregional and other programmes would be considered at the morning meeting and the programmes for Central and Eastern Europe and the Commonwealth of Independent States would be taken up at the

(Mr. Ward, Canada)

following meeting. With regard to the proposed timetable for the Committee on Administration and Finance for Monday, 22 June, and Tuesday, 23 June, further changes could be made through consultations with the secretariat. He therefore proposed focusing on the main clusters of items that he had introduced the previous day and asked members for their cooperation in reaching a consensus on them.

21. Mr. RYSINSKI (Poland) said that his delegation would prefer the order of items 5 (e) and 5 (f) to be reversed, so that item 5 (e) would include the programmes for Central and Eastern Europe and the Commonwealth of Independent States and item 5 (f) would cover the interregional and other programmes.

22. Mr. SCOTT (Australia) said that it was his understanding that the proposal made the previous day had to do with a new arrangement regarding the chairmanship.

23. Mr. WARD (Canada) said that, indeed, the two proposals before the Board had to do, first, with amendments to the provisional timetable in document E/ICEF/1992/CRP.12 and, secondly, with the rotation of the chairmanship, specifically by assigning it for two years to developing countries and for one year to developed countries. There was as yet no consensus on those questions.

24. The meeting was suspended at 11.05 a.m. and resumed at 12.40 p.m.

25. Mr. WARD (Canada) said that he was pleased to inform the members that a consensus had been reached in the informal consultations with regard to items 5 (b) and (c). The relevant recommendations would be made at the afternoon meeting.

26. The CHAIRMAN invited the Board to consider the adoption of document E/ICEF/1992/CRP.13 on the future work and procedures of the Executive Board.

27. Mr. TISSOT (United Kingdom) said that he had no objection to the contents of the document but pointed out that section 3 on documentation recommended reducing the number of pages for country programme recommendations, whereas the Executive Board Reference Group had recommended adding one more page to the recommendations for the inclusion of additional information.

28. The CHAIRMAN said that, if she heard no objection, she would take it that the Board wished to adopt the draft recommendation on document E/ICEF/1992/CRP.5, contained in document E/ICEF/1992/CRP.13.

29. It was so decided.

30. Ms. RIEHM (NGO Committee on UNICEF) said that, in response to the global concern over the issue of the education of girls, the Working Group on Education of the NGO Committee on UNICEF had held a number of meetings, among them an information meeting at UNICEF headquarters, where the groundwork had

(Ms. Riehm)

been laid for the Consultation on Education for All Girls that had been held in November 1991. The recommendations resulting from that Consultation had been presented to the International Consultative Forum on Education for All held in Paris from 4 to 6 December 1991. The NGO Working Group on Education was organizing a conference on education for girls to be held in New York in April, which would focus on the country plans of 15 flagship countries from five regions of the world where education for girls was a major concern. The resulting recommendations, together with a call to action by non-governmental organizations, would be presented in June to the Executive Board, and she requested that her Committee should be allowed to make a second statement at that time.

The meeting rose at 12.50 p.m.